

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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AUG 13 2003

In the Matter of

Implementation of Sections 309(j) and  
337 of the Communications Act of 1934  
as Amended

Promotion of Spectrum Efficient  
Technologies on Certain Part 90  
Frequencies

WT Docket No 99-87 FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RM-9332

**PETITION FOR RECONSIDERATION OF THE SUFFOLK COUNTY,  
NEW YORK POLICE DEPARTMENT**

The Suffolk County Police Department (SCPD) submits this Petition for  
Reconsideration of the Commission's *Second Report and Order and Second Further  
Notice of Proposed Rulemaking* "Second Report and Order") in the above proceeding.<sup>1</sup>  
The Commission's goal of moving public safety communications to more spectrum  
efficient capability is well founded, yet the record before the Commission does not  
support the mandates it now imposes on state and local governments. This mandates  
present severe obstacles to the daily operations of maintaining public safety  
communications systems and will denigrate the quality and efficiency of service. The  
mandates should be replaced by rules reflecting fidelity to how public agencies plan and  
invest in new systems and sustain current radio systems.

<sup>1</sup> Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as amended, Promotion of  
Spectrum Efficient Technologies on Certain Part 90 Frequencies, *Second Report and Order and Second  
Further Notice of Proposed Rule Making*, WT Docket 99-87, RM-9332, FCC 03-34 (February 25, 2003)

OK!!

## **The Suffolk County Police Department**

Suffolk County encompasses 1000 square miles of the eastern two-thirds of Long Island, extending 120 miles into the Atlantic Ocean, east from New York City. The distance from the Nassau County border to Montauk Point is 86 miles. At Suffolk County's widest point the distance from Long Island Sound to the southern shore is 26 miles. In carrying out its responsibilities, the Suffolk County Police Department has over 3,200 sworn and civilian members serving over 1.4 million citizens and encompasses the full range of law enforcement and public safety responsibilities. The Department covers over 430 miles of coastline and open water. It responds to over one million calls for service per year and is the 14<sup>th</sup> largest Police Department in the country. Its communications systems includes frequencies addressed by the Second Report and Order and it is directly affected by the Commission's new rules.

Suffolk County commits substantial investment to public safety communications. The critical role licensed radio frequencies have had in modernizing the SCPD's communications system cannot be overstated. The Commission's tangible commitment to the SCPD through assigning radio frequencies has been enhanced by other federal agencies. The SCPD has received a \$15-million grant under the COPS MORE program, which was matched by \$5 million in County funds. These resources provided for the acquisition of mobile data computers in all SCPD's marked police units and many unmarked units, LIVE SCAN Fingerprinting and Photo Imaging for investigative units, and a state-of-the-art integrated records management system tied to the computer aided dispatch system. The FY 2003 appropriation legislation provided an additional \$400,000 in federal resources for the County's public safety communications system.

## **The Commission's Second Report and Order**

In the Second Report and Order the Commission found that its approach to encouraging spectral efficiency in the 150-174 MHz and 421-512 MHz bands was not sufficient to bring about a timely transition to narrowband technology and that stronger action is required. The Commission amended its rules to provide what it characterizes as a 10-year schedule for the migration of the subject systems to narrowband technology.

The Commission's rules now mandate that

- beginning six months after publication of its decision applications for new operations using 25 kHz channels for any system operating in the 150-174 MHz or 421-512 MHz bands are prohibited
- beginning six months after publication of its decision incumbent 25 kHz Part 90 licensees may not make modifications that would expand the contours of their systems
- beginning January 1, 2005, there will be no certification of *any* equipment capable of operating at one voice path per 25 kHz of spectrum, *i.e.*, multi-mode equipment that includes a 25 kHz mode,
- beginning January 1, 2008, the manufacture and importation of any 25 kHz equipment (including multi-mode equipment that can operate on a 25 kHz bandwidth) is prohibited
- beginning January 1, 2013 non-public safety licensees using channels in these bands must deploy technology that achieves the equivalent of one voice path per 12.5 kHz of spectrum,
- beginning January 1, 2018, public safety licensees using channels in these bands must deploy technology that achieves the equivalent of one voice path per 12.5 kHz of spectrum based on the equipment certification process.

The rules promulgated in the Commission's Second Report and Order are not transitional. Excepting the 2018 deadline, each imposes an immediate mandate on state and local governments and each will disrupt substantially public safety communications. The Commission has noted its responsibility to ensure effective public safety

communications by state and local governments and a comprehension if not empathy of the challenges faced. While the Second Report and Order acknowledges the resource challenges faced by government agencies, the Commission has before it no record demonstrating that its actions address these challenges. The SCPD details below how the Commission's new rules will not only preclude an orderly transition to more efficient frequency use, but that the immediate consequences of the new rules will cause substantial harm.

**The Mileposts Established by the Commission's Rules Ignore the Lengthy Investment and Implementation Process of Public Safety Agencies as well as the Need to Repair and Replace Existing Equipment**

Under the Commission's rules, new operations in the 150-174 MHz or 421-512 MHz bands proposing to use 25 kHz channels are prohibited beginning January 24, 2004. The result is that systems that have finally been funded and designed, a multiyear process that commenced long before the Commission issued its Second Report and Order, will have to start over, thereby delaying even further needed improvements in public safety communications. Moreover, the rules ignore that new systems by character have some relationship to a legacy base, which the local government has concluded not to upgrade. The mandate of the rule will require the legacy elements to be included in a project, increasing dramatically its costs. Plans under development, having been confined by strained resources, are likely to be abandoned when confronted with the mandate to include all legacy element of a system.

Assertions that the Commission waiver process can address such circumstances ignores the breadth of the systems involved and the demands such a process will place on the Commission staff and a public agency seeking to modernize its communications.

network. Instead of directing efforts toward constructing a system, legal and technical resources will be devoted to convincing the Commission the system must be built within the confines envisioned, a process where only delay will accrue. Resources are more effectively directed toward efforts that have a direct and tangible impact of improving public safety communications.

The Commission's rules also preclude expanding an agency's footprint after January 17, 2004, on a premise that by prohibiting such, an incentive to replace all equipment will be created. Far from an incentive, the rule ignores the reality that changes in an agency's footprint are directed toward improving coverage and quality of wireless communications of legacy systems and that improvements short of replacing entire systems are critical, if not routine, elements of public safety communications. The Commission's rule ensures not only that these improvements will be delayed for an indeterminate length of time, but will likely be abandoned.

In barring the certification of new 25 kHz equipment after January 2005 and the manufacture and importation of 25 kHz equipment after January 2008, the Commission similarly ignores the realities and challenges of maintaining a public safety communications system. Communications equipment and its infrastructure, particularly in the law enforcement, fire and emergency services, are subject to extreme conditions, with repair and replacement cycles extremely high. The availability of quality replacement equipment and infrastructure, from reputable manufacturers and service providers, is critical. The Commission's rule barring certification and manufacture portends an abandonment of deployed systems, something the Commission cannot possibly intend. Moreover, there is no record with regard to how the manufacturing and

service provider interests will react as these dates approach, creating a further instability as to the availability of replacement equipment

The SCPD's own circumstances reflect the severe obstacles that the Commission's rules now impose on deployed public safety communication systems. In the Commission's *Report and Order and Further Notice of Proposed Rulemaking*, In the Matter of Replacement of Part 90 By Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services,<sup>2</sup> specific parameters were established with regard to data operations in terms of channel bandwidth and minimum efficiency standards. The SCPD built its infrastructure for its critical mobile data capability based upon these parameters. This system is operational and will require consistent maintenance for many years to come. The Commission's new rules seemingly strand the investment made by SCPD in its data network and imposes substantial challenges to maintain it. Moreover, the change to the rule does not obtain any efficiency gains, and affects virtually every major police department in the New York Metropolitan area who has upgraded its mobile data transmission capacity since 1995.

The Commission's rules ignore in a fundamental way not simply the difficult and bifurcated process by which state and local governments plan, finance and construct new public safety communications systems, but the daily operations of maintaining a wireless communications systems. Crucial to carrying out the responsibility of ensuring that law enforcement and public safety officers have available quality wireless communications is

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<sup>2</sup> *Report and Order and Further Notice of Proposed Rulemaking*, In the Matter of Replacement of Part 90 By Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, PR Docket 92-235, 10 FCC Rec. 10076, FCC 95-255 at para. 97 (1995)

the ability to replace and upgrade equipment continually and seamlessly. The Commission's action in limiting contour expansion, precluding certification and then manufacture and importation of replacement legacy equipment will make this already difficult challenge insurmountable. The so-called transition rules will disrupt the servicing and repair of already deployed equipment to the extreme detriment of public safety agencies and the citizens they serve.

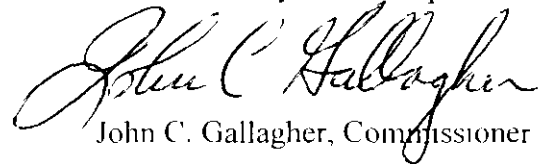
### **Conclusion**

Any transition to 12.5 kHz must be premised on the reality of providing state and local governments the opportunity to plan the investment, obtain the resources, and construct new systems as well as maintain deployed systems through readily available quality replacement equipment. The Commission's rules must comprehend that spectrum policy must be pursued within this context. The Commission's policies must acknowledge that entrusting state and local governments with core public safety services is a hallmark of the American government structure. The benefits accruing from local responsibility are substantial and policies pursuing more efficient spectrum use

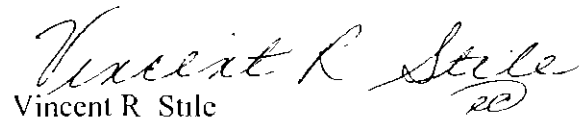
must not ignore this fundamental. The Commission's present mandates will wreak havoc on present systems and will place the overall transition to move to more efficient spectrum use in doubt. The Suffolk County Police Department urges the Commission to integrate into its mandates an understanding that allows present operations to remain vibrant and that state and local processes of investment and planning be respected.

Respectfully submitted,

Suffolk County Police Department

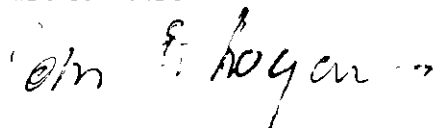


John C. Gallagher, Commissioner



Vincent R. Stile  
Director, Police Communications  
Systems

Suffolk County Police Department  
30 Yaphank Avenue  
Yaphank, New York 11980  
631 852.6431



John E. Logan  
Special Counsel to the Suffolk  
County Police Department  
1050 Connecticut Avenue, NW  
Tenth Floor  
Washington, D C 20036  
202 772 198

August 13, 2003